

## REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action dated December 12, 2006 (hereinafter "Office Action").

Upon entry of the present Amendment, Claims 28-32 and 34-39 are pending. Claims 33 and 40 have been cancelled.

### **I. Claim 33 Rejection**

Claim 33 is rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In order to facilitate an early Notice of Allowance, Applicants have cancelled Claim 33, thus this rejection should be overcome.

### **II. §102 Rejection of Claims 28-33, 35-37, and 40 Based on Lyall et al.**

Claims 28-33, 35-37, and 40 are rejected under 35 U.S.C. §102(b) as being anticipated by Lyall et al. *See Office Action, page 2.* Applicants respectfully disagree with the Examiner's position.

Applicants invention relates to the **dispersion** of lithium metal in a host material such as carbon. The amount of lithium metal dispersed is no more than the maximum amount sufficient to intercalate in, alloy with, or be absorbed by the host material in the anode. Claim 28 has been amended to recite this. Such dispersion and such an amount of lithium metal is not taught by Lyall et al. Lyall et al. merely proposes mixing lithium metal with granular carbon. There is no disclosure of dispersing, and moreover no disclosure of the step of dispersing to provide a specific amount of lithium metal dispersed in the host material.

### **III. §103 Rejection of Claim 34 Based on Lyall et al.**

Claim 34 is rejected under 35 U.S.C. §103(a) as being unpatentable over Lyall et al. Claim 34 differs from Lyall et al. by reciting ranges of particle sizes. Inasmuch as Applicants

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have amended Claim 28 to distinguish it over Lyall et al., dependent Claim 34 should be allowable in view of Claim 28 being allowable.

**IV. §103 Rejection of Claims 38 and 39 Based on Lyall et al. in view of Rao et al.**

Claims 38 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lyall et al. in view of Rao et al. These claims differ from Lyall et al. by reciting the particular nature of the anode carbon material, which is graphite, optionally along with carbon black, the latter being either lampblack or acetylene black. As discussed above, Lyall does not teach the dispersion of a defined amount of lithium metal into the host material. Rao et al. does not cure the defect of Lyall et al. and its lack of teachings with respect to the amount of lithium metal dispersed in the host material.

**CONCLUSION**

Accordingly, Applicants submit that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any small matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

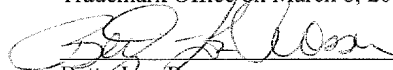


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